

DELTA PROTECTION COMMISSION

April 22, 1993
Stockton, California
Meeting Minutes

I. CALL TO ORDER

Tom Torlakson called the meeting to order at 6:30 pm. Rick Frank read the roll. Present were Commissioners Tom Torlakson, , Ryan Broddrick, Robert Calone, Darrell Ferreira, Toby Johnson, Pat McCarty, Steve Mello, Elizabeth Patterson, and Bob Potter. Joining the meeting after roll call were Commissioners Bill Curry and A.J. Yates. Not present were Commissioners Heather Fargo, Clyde Bland, Joel Keller, William Salmon, and Dick Troy. Interim staff present: Ross Sargent, Interim Executive Director; Rick Frank, Deputy Attorney General; and Julius Tsai, Special Assistant at the Resources Agency.

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF MARCH MINUTES

Mr. Torlakson suggested that the agenda for this evening's meeting be adjusted so that the information briefing would precede the interim executive director report. Mr. Johnson moved to the effect, and Mr. McCarty seconded. The Commission approved the agenda change by acclamation.

Mr. McCarty proposed a motion to adopt the minutes. Mr. McGowan seconded the motion, Mr. Barber abstained, and the Commission unanimously adopted the February minutes.

IV. INFORMATIONAL BRIEFING

Commissioner Bob Potter, Chief Deputy Director of the Department of Water Resources, introduced the participants that would present the informational briefing about the Delta Levees situation and federal interests in the Delta Levees.

A. Kurt Schmoody, DWR

Mr. Schmoody presented a slide show concerning Senate Bill 34 and SB 1065. He provided background concerning both bills and specifics on flood control. SB 34 allocates half of its funding to levee subvention and half to special flood control projects. He outlined the program's objectives to improve levees' flood control, the water quality, wildlife habitat, and recreational opportunities; he outlined the benefits of levee improvement in enhancing wildlife, water quality, and agriculture; and he outlined flooding effects, threatened levee sites, subsidence control, and cause of subsidence. He also showed a video on the rehabilitation of Twitchell Island, highlighting the dredging program's potential in improving levees.

B. Mary Johannes, DWR Subvention Program

Mary Johannes continued the meeting with another video presentation also discussing SB 34 and SB 1065. She outlined levee standards: minimum standards, hazard mitigation standards, PL-99 standards, Bulletin 192-82 standards, corps standards, and long-term goal standards. She also outlined the two-part program of levee improvement; rehabilitation involves an HMP Standard, PL-99, and Bulletin 192-82; and maintenance involves levee inspection and special criteria. The main goals are to avoid wildlife impact where possible, minimize and compensate for unavoidable impact, and mitigate new insights and activities.

C. Ed Latrell, Department of Fish and Game

Ed Latrell outlined the participation of the Department of Fish and Game in the levee program. DFG has an overall goal of no net long term loss of riparian, fisheries, and habitat which complicates the secondary goal of levee protection. Currently, DFG is working on a mitigation plan, master environmental assessment guide, a mitigation guidance document, and demonstration projects. He described the master environmental assessment guide as an information document with a description of biological resources, engineering, and use information for reclamation districts. Mr. Latrell discussed the role of the mitigation document as a how-to manual explaining the process for written applications and legally enforceable mitigation agreements. Mr. Latrell described current demonstration projects and displayed many examples with a slide show.

D. Lynne O'Leary, Army Corps of Engineers

The Army Corps of Engineers is involved in the Sacramento-San Joaquin Delta mainly through regulatory evaluation, engineering projects, and land-use planning. Currently, the Army Corps is working on a Sacramento-San Joaquin Delta Special Study. Additionally, the Corps is engaged in a cost-sharing agreement with DWR and the Reclamation Board and is attempting to create a complete plan for the Delta, outlining problems and needs, present and future conditions, solutions, and future involvement of the Corps.

E. Discussion

Tom Torlakson thanked the speakers and asked for comments and questions upon which Mr. McCarty asked Mary Johannes about the number of feet of free board above the water level. Mary Johannes explained that one foot of free board was in place.

Mr. Barber proclaimed the presentation a fraud.

Mr. Torlakson then asked Lynne O'Leary about the overlap with their work on the Delta and the Commission. Ms. O'Leary explained that they would act through the recommendations of BDOC and the Delta Protection Commission and that the Corps is simply trying to establish its role.

Mr. Potter suggested that DWR cooperate with the Corps to obtain federal resources in better shape, and Ross Sargent followed up to ask whether the Corps could share its findings for the Commission's management plan. Ms. O'Leary responded that the document will be public upon completion but that she was uncertain what could be released before finalization. Mr. Sargent asked Ms. O'Leary if she would find out whether the Corps findings could be shared with the Commission before the adoption of its finalized version. She agreed to get an answer to the question.

Mr. Torlakson asked Mr. Latrell when the Master Environmental Assessment Guidance Document would be complete and Mr. Latrell stated it was expected by the end of June. Mr. McCarty remarked that it is very difficult to balance water supply, flood control, and wildlife habitat.

Ms. Patterson asked what the range of mitigation documents were and Mr. Latrell described the demonstration projects which researched alternatives.

Ms. Patterson suggested a field trip to look at the levees.

Mr. Mello asked what was being done about the wildlife values in the interior. Mr. Latrell described the protection of farming as also protecting wildlife habitats; for example, the geoweb that holds the soil in place but allows vegetation to grow.

Mr. Torlakson suggested that we ask the Army Corps to see their study and DFG to see the Guidance document.

Mr. Broddrick asked for an approximate cost to get the Delta levee system back up to standard; the Corps estimated approximately \$6 billion and Mr. Schmoody estimated approximately \$1 million per mile.

V. INTERIM EXECUTIVE DIRECTOR'S REPORT

Ross Sargent brought up a pending project on Decker Island for which Mega-Sand has applied for a use permit to the County of Solano planning commission. This three phase project for commercial dredging, storage and selling of sand may at some point come before the Commission by way of appeal from local government action. Mr. Thompson abstained from all discussion due to a possible conflict of interest. The Commission discussed the fact that they currently have no procedures or guidelines for appellate review. Mr. McCarty made a motion for staff to look at the role of the Commission, its options, and guidelines in an appeals process. Ms. Patterson seconded the motion. The motion passed unanimously with Mr. Thompson's abstention.

Ross Sargent also brought to the attention of the Commission a \$50,000 award from a suit in the San Joaquin Court. Mr. McGowan moved to accept the money, Mr. Broddrick seconded the motion, and the Board unanimously moved to

accept the money.

Ross Sargent also brought up the Commission's desire to have Vanity plate legislation for the Delta region by amending a pending bill authored by Senator Leslie. Mr. Sargent reported it was not feasible to amend this legislation this year. However, Senator Johnston will consider introducing legislation to do so if the Commission and the state agencies on the Commission are supportive.

Deputy Attorney General Frank reported on Solano County Council's request for a constitutional opinion on the Delta Protection Act. The request is pending in the Attorney General's Office.

Commissioner Patterson had inquired whether the Commission could charge the public for materials provided, and Mr. Frank found that as reimbursement under Code 11125.1E the Commission could ask for reimbursement of both agendas and supplemental materials, although he is not aware of an existing process anywhere charging for agendas.

As a follow-up to questions about two-member non-public subcommittees meeting, Mr. Frank discussed a potential cloud on legality of such meetings with a pending appeal to the Supreme Court.

Responding to Mr. McCarty on the confidentiality of applications for the executive director position, Mr. Frank deferred to the personnel subcommittee report to discuss this matter.

VI. PERSONNEL SUBCOMMITTEE REPORT

Mr. McCarty reported that thirty-two applications have been received in the Contra Costa Supervisor's office, of which twenty-five met minimum qualification standards. The applications are still subject to a first phase screening, and expert panel will meet in the second phase, and a five-member subcommittee will decide on a final three applicants.

Mr. Frank said that the confidentiality decreases as the number of finalists decreases but that there is no final word on what must be confidential when within the Public Records Act.

The meeting for the subcommittee of five will be May 25th and possibly May 26th. The final review is the monthly meeting on May 27th.

VII. COMMISSIONER COMMENTS

Mr. Torlakson announced the Contra Costa Tea Party on May 19, where there will be a public protest on the proposed state budget.

VIII. PUBLIC COMMENTS

John McCaul, the National Director of the National Audubon Society, brought up his concern in regard to the role of the Delta Protection Commission with the Mega-Sand situation.

Dr. Frank Ernst read a letter displaying his dismay with the Commission as an unaccountable body with an executive director who is not an elected official, as well as the placement on the agenda for public comment.

Mr. Torlakson responded that the Commission has always recognized public comment throughout the agenda.

IX. ANNOUNCEMENTS

Mr. Torlakson announced that the next meeting will be held in Brentwood at 9 am on Thursday, May 27th.

X. ADJOURNMENT